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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,256	03/08/2007	Masaki Hirose	450106-05228	5011
7590	03/02/2009		EXAMINER	
William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151			DAZENSKI, MARC A	
			ART UNIT	PAPER NUMBER
			2621	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/560,256	HIROSE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	MARC DAZENSKI	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 December 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-11 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 09 December 2005 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>12-9-2005, 3-8-2007, 5-4-2007</u>	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

**Claims 10-11** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. **Claims 10 and 11** define a program and a record medium, respectively, embodying functional descriptive material. However, the claim does not define a computer-readable medium or computer-readable memory and is thus non-statutory for that reason (i.e., "When functional descriptive

material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). The scope of the presently claimed invention encompasses products that are not necessarily computer readable, and thus NOT able to impart any functionality of the recited program. The examiner suggests amending the claim(s) to embody the program on “computer-readable medium” or equivalent; assuming the specification does NOT define the computer readable medium as a “signal”, “carrier wave”, or “transmission medium” which are deemed non-statutory (refer to “note” below). Any amendment to the claim should be commensurate with its corresponding disclosure.

Note:

A “signal” (or equivalent) embodying functional descriptive material is neither a process nor a product (i.e., a tangible “thing”) and therefore does not fall within one of the four statutory classes of § 101. Rather, “signal” is a form of energy, in the absence of any physical structure or tangible material.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-11** are rejected under 35 U.S.C. 102(e) as being anticipated by David et al (US PgPub 2002/0131764), hereinafter referred to as David.

Regarding **claim 1**, David discloses identifying, recording, and reproducing information. Further, David discloses a video, audio, and/or data signal processing system comprising a recorder for recording video and/or audio and/or data material on a recording medium, which reads on the claimed, “an information process apparatus that manages data recorded on a record medium,” as disclosed at paragraph [0010]; the apparatus comprising:

a second generator for generating second, universally unique, identifiers for pieces of material, the second identifiers being generated in respect of one or more of the first identifiers, which reads on the claimed, “first generation means for generating management information that associates a first identifier that can identify the data in any area with information about the data,” as disclosed at paragraph [0010];

a first generator for generating first material identifiers for identifying respective pieces of material on the medium such that each piece is differentiated from other pieces on the medium, the first identifiers need not be universally unique and can thus be smaller than the universally unique identifiers (i.e., the second identifiers), which reads on the claimed, “second generation means for generating a second identifier that can identify the data in a storage area of the record medium, the data amount of the

second identifier being smaller than that of the first identifier,” as disclosed at paragraphs [0010]-[0012];

camcorder (500) which records video and audio material on a recording medium along with metadata, the metadata being linked to the material by UMID's (i.e., the first identifier) and MURNs (i.e., the second identifier), the MURNs being generated as the material is recorded on the tape and preferably being recorded in the user bits of tape time codes, which reads on the claimed, “addition means for adding the second identifier generated by the second generation means to the management information to associate the second identifier with the information about the data; and record means for recording the management information to which the second identifier has been added by the addition means on the record medium,” as disclosed at paragraphs [0090]-[0094].

Regarding **claim 2**, David discloses everything claimed as applied above (see claim 1). Further, David discloses camcorder (500) recording video and audio data on a recording medium as well as metadata may be recorded on the tape, which reads on the claimed, “wherein the data contain at least one of video data, audio data, and meta data added to the video data,” as disclosed at paragraph [0090].

Regarding **claim 3**, David discloses everything claimed as applied above (see claim 1). Further, David discloses that the UMID links the material data to the metadata and that it comprises a universally unique identifier, which reads on the claimed, “wherein the information about the data contains information about a directory path name and a file name of the data,” as disclosed at paragraph [0091].

Regarding **claim 4**, David discloses everything claimed as applied above (see claim 1). Further, David discloses UMIDs having 23, 32, or 64 bytes and MURNs being written in the 80 time code user bits, which reads on the claimed, "wherein the first identifier is composed of 64 bytes and the second identifier is composed of 20 bits," as disclosed at paragraphs [0091], [0251], and [0284].

Regarding **claim 5**, David discloses everything claimed as applied above (see claim 1). Further, David discloses the MURNs comprising a Tape ID as well as a number that increments, decrements, or otherwise varies from material to material on the tape, which reads on the claimed, "wherein the second identifier is composed of a first portion that represents the type of the data and a second portion that represents a serial number of the second identifier," as disclosed at paragraphs [0095] and [0286].

Regarding **claim 6**, David discloses everything claimed as applied above (see claim 5). Further, David discloses that when a new MURN needs to be generated the MURN generator interrogates the telefile to find the highest previously used MURN value, increments it and uses that as the new MUR value, writing the new MURN value back to the telefile, which reads on the claimed, "search means for searching a plurality of second identifiers recorded on the record medium for the maximum value of the second portion, wherein the second generation means generates the second identifier according to the maximum value for which the search means has searched so that the second identifier does not become redundant to the plurality of second identifiers recorded on the record medium," as disclosed at paragraph [0290].

Regarding **claim 7**, David discloses everything claimed as applied above (See claim 1). Further, David discloses an ingestion processor (178) which therefore represents a data processor which can access any of the video tape recorders (204) in order to reproduce the audio/video material from the video tapes loaded into the video tape recorders, which reads on the claimed, “reproduction means for reading the data from the record medium and reproducing the data,” as disclosed at paragraph [0234].

Regarding **claim 8**, David discloses everything claimed as applied above (see claim 7). Further, David discloses editing terminal (184) communicating a request for material data, reading the UMIDs identifying the audio/video material and then in response to this request the ingestion processor (178) selectively reproduces these material items that are identified by the UMIDs from the recording medium, which reads on the claimed, “read means for reading the management information read by the record means; and hold means for holding the management information read by the read means, wherein the reproduction means reads the data to be reproduced from the record medium according to the management information read by the read means and held by the hold means and reproduces the data,” as disclosed at paragraph [0237].

Regarding **claim 9**, the examiner maintains that the claim is the corresponding method to the apparatus of claim 1, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 1 above.

Regarding **claim 10**, David discloses that the methods described herein may be embodied and represented as instructions of a computer program, as disclosed at paragraph [0315]; further, the examiner maintains that the claim is simply the

corresponding program implementing the method of claim 9, and therefore the limitations of the claim are rejected in view of the explanation set forth in claim 9 above in addition to the disclose paragraph [0315].

Regarding **claim 11**, David discloses as recording medium which may be a tape or optical disc in addition to a magnetic disk or random access memory, the recording medium comprising second, universally unique, identifiers for pieces of material, the second identifiers being generated in respect of one or more of the first identifiers as well as first material identifiers for identifying respective pieces of material on the medium such that each piece is differentiated from other pieces on the medium, the first identifiers need not be universally unique and can thus be smaller than the universally unique identifiers (i.e., the second identifiers), video and audio material being recorded on a recording medium along with metadata, the metadata being linked to the material by UMID's (i.e., the first identifier) and MURNs (i.e., the second identifier), the MURNs being generated as the material is recorded on the tape and preferably being recorded in the user bits of tape time codes, which reads on the claimed, "a record medium on which data reproduced by an information process apparatus are recorded, management information that associates a first identifier that can identify the data in any area and a second identifier that can identify the data in a storage area of the record medium, the data amount of the second identifier being smaller than that of the first identifier, with information about the data being recorded on the record medium," as disclosed at paragraphs [0010]-[0012], [0090]-[0094], and [0231].

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARC DAZENSKI whose telephone number is (571)270-5577. The examiner can normally be reached on M-F, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (571)272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/  
Supervisory Patent Examiner, Art Unit 2621

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